

**CHARLOTTE COUNTY PLANNING AND ZONING BOARD**  
**REGULAR MEETING**  
**Administration Center, 18500 Murdock Circle, Room 119, Port Charlotte, Florida**

**Board Members**

Michael Gravesen, Chair  
Paul Bigness, Vice-Chair  
Stephen Vieira, Secretary  
Don McCormick  
Kenneth Chandler



**District**

District V  
District III  
District I  
District II  
District IV

**MINUTES**  
**REGULAR MEETING**

*September 14, 2020 at 1:30 P.M.*

**Call to Order**

Chair Gravesen called the meeting to order at 1:30 pm

**Roll Call**

Upon the roll being called it was determined a quorum was present.

**Approval of Minutes – July 13, 2020 Regular Meeting**

The July 13, 2020 minutes were approved as circulated.

**Announcements**

The oath was provided by Recording Secretary Bennett for those wishing to provided testimony.

**PETITIONS**

**PP-20-05-12**

**Quasi-judicial**

**Commission District I**

Waldrop Engineering has requested Preliminary Plat approval for a for a 188 lot subdivision to be named, Kingsgate Phase 8. The site is 18.65 acres, more or less, and located one mile west of I-75, north of Rampart Blvd. and east of Kings Hwy., within the Victoria Estate DRI, in the Port Charlotte area.

**Shaun Cullinan, Planning and Zoning Official**, provided the findings and analysis for Petition **PP-20-05-12** with a recommendation of approval with Conditions, based on the reasons stated in the staff report.

**Chair Gravesen** stated they accept Mr. Cullinan as an expert witness.

**Questions for Staff**

None

**Applicant's Presentation**

**Jackie Larocque, Esq., Waldrop Engineering**, said she accepts Shaun as an expert. She explains this is located in Kingsgate, it is 188 lots, that they are platting the undeveloped portions of the land. This section has already been set aside. The road ways and the Utilities are existing, they are just coming through and putting the lots on the ground. She accepts all conditions.

**Public Input**

None.

- **Mr. McCormick** moved to close the public hearing, second by **Mr. Bigness**; with a unanimous vote.

**Recommendation**

**Mr. Vieira** moved that **PP-20-05-12** be sent to the Board of County Commissioners with a recommendation of Approval with one condition, based on the findings and analysis in the staff report dated July 20, 2020, along with the evidence presented at today's meeting, second by **Mr. Bigness**; and carried by a unanimous vote.

**FP-20-05-11**

**Quasi-judicial**

**Commission District III**

Old Florida Homes LLC has requested Preliminary & Final Plat approval for a three-lot Minor Subdivision to be named Tuckers Bay. The site is 1.59 acres, more or less, and located at 1951 Wisconsin Avenue in the Englewood area.

**Shaun Cullinan, Planning and Zoning Official**, provided the findings and analysis for Petition **FP-20-05-11** with a recommendation of approval, based on the reasons stated in the staff report.

**Applicant's Presentation**

**Robert Berntsson, Esq. Big W Law Firm**, said he accepts Shaun as an expert. He agreed with the staff report and respectfully requests their approval.

**Public Input**

None.

- **Mr. Vieira** moved to close the public hearing, second by **Mr. Bigness**; with a unanimous vote.

**Recommendation**

**Mr. Bigness** moved that **FP-20-05-11** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff report dated July 16, 2020, along with the evidence presented at today's meeting, second by **Mr. McCormick**; and carried by a unanimous vote.

**SV-20-06-03**

**Legislative**

**Commission District I**

Tracie L. York is requesting to vacate a portion of Parada Street, within Parada Del Sol Subdivision and is located north of Bermont Road and south of Washington Loop Road. The segment is 0.43 acres, more or less, lying East of Lot 4 & Lot 5 and lying West of Lot 12 & Lot 13 as recorded in Plat Book 15, Page 57, of the Public Records of Charlotte County, in the east County area.

**Shaun Cullinan, Planning and Zoning Official**, provided the findings and analysis for Petition **SV-20-06-03** with a recommendation of denial, based on the reasons stated in the staff report.

**Questions for Staff**

**Mr. McCormick**, said it looks like if we approve this that there would not be any land lock properties, or people unable to access their land. Is there some reason, that I didn't see in the report, why the recommendation was denial?

**Shaun Cullinan**, answered one of the reasons for that is if you see this way where it's creating two dead ends? (he was pointing to the map) You are correct, no properties will be denied reasonable access to their properties. Due to having their portions of the right of way, instead of a parallel frontage they'd have a perpendicular frontage. However, this would then create two dead ends. That area is narrow and undeveloped, we had concerns about the liability of people being able to turn around. One of the reasons the applicants they are looking for this, is due to safety. People travel very fast on that road, we've been told, they have concerns for them backing out and somebody hitting them or them hitting someone. They have concerns about that, so they have petitioned for this vacation.



**Applicant's Presentation**

**Tracie York, applicant**, explains the amount of heavy traffic of off roading that goes on in the area, and how it is tearing up the lots. How she has involved the police on multiple occasions, and they do not recognize the situation because the ATV's are not a registered vehicle and there are no signs posted. She is asking for a No Trespassing, Private Road and Residents Only sign to be placed in the area. In hopes for it to help stop the amount of off roading that takes place in the area from non-resident individuals. She also explains, that she has reached out to Public Works about posting a sign in the area and they explained they can't help because it's not a maintained road. They have reached out to all of the objection letters and they don't disagree to anything they want to say or do. They agree to anything. Prada Del Sol was developed as a private development by a private developer. Therefore, the street known as Prada should be private for the residents. She implores you to allow her to be the first one to vacate her frontage for peace, safety and as well to protect her on going investment interest in that division.

**Public Input**

None.

- **Mr. McCormick** moved to close the public hearing, second by **Mr. Bigness**; with a unanimous vote.

**Recommendation**

**Mr. McCormick** moved that **SV-20-06-03** be sent to the Board of County Commissioners with a recommendation of Denial, based on the findings and analysis in the staff report dated July 20, 2020, along with the evidence presented at today's meeting, second by **Mr. Bigness**; and carried by a unanimous vote.

**PV-20-05-03**

**Legislative**

**Commission District IV**

Dubbland Development LLC is requesting to vacate lots, streets and a park strip in a portion of Replat Port Charlotte Subdivision Section 30, including an access road and adjacent park strip, a total of 5.31 acres, more or less, as recorded in Plat Book 5, Page 49, 23A-23F, of the Public Records of Charlotte County, Florida, and located at the northeast corner of US 41 and Chamberlain Boulevard, in the Port Charlotte area.

**Shaun Cullinan, Planning and Zoning Official**, provided the findings and analysis for Petition **PV-20-05-03** with a recommendation of approval with conditions, based on the reasons stated in the staff report.

**Applicant's Presentation**

**Geri Waksler, McCrory Law Firm**, said she accepts Shaun as an expert. She said the plat vacation will not only vacate the lots but also Bamboo Dr. and the access road as well creating a unified development parcel. Vacating the access road is very important. With Murdock Village now developing and North Port booming, it is inevitable that we will see development heading north, closing the gap between Charlotte County and North Port. Chamberlain Blvd. will become a busy road. Vacating this plat will allow for a second access directly onto Tamiami Trail. She said the applicant will grant a drainage easement to Charlotte County over the existing ditch currently located in the north Tamiami Trail access road right of way between Chamberlain Blvd. and the Crestwood waterway. The plat vacation will not be recorded until the drainage easement is granted. The easement may be modified at a later date to move the location or reduce the width if the applicant chooses to pipe the drainage. Any modification must be reviewed and approved by Public Works.

**Shaun Cullinan** said they will revamp the conditions prior to the BCC meeting because the date of this staff report is July 15<sup>th</sup>. This was intended to go to the August P&Z meeting, which did not have a quorum. These issues were rectified after this staff report was uploaded to the website.

**Public Input**

**Kay Wensel, who lives in the area, said she was sworn in.** Ms. Wensel said they own lot 65, 545 Pembroke Drive, and handed out photographs of the area and apple snails. She asked the zoning replat be granted only if it contains the stipulation that the County right of way along the waterline be maintained in its natural state. This would help ensure the quality of life for wildlife and human residents along the waterway. She discussed some of the wildlife in the area.

**Cathy Carter, who lives in the area, said she was sworn in.** Ms. Carter said she owns lots 61 and 62. She has lived here less than 6 months. They purchased the lots for the view. She agrees with the previous lady and would not like the maintenance done across from her. She spent a lot of money to build this home and she would like to keep this view.

- **Mr. McCormick** moved to close the public hearing, second by **Mr. Vieira**; with a unanimous vote.

**Rebuttal**

**Ms. Waksler** said this property is zoned commercial. It has always been commercial. The plat vacation does not change the zoning or change or grant any property rights or development rights.

**Mr. McCormick** asked about the buffer strip along the canal. How wide is this buffer?

**Mr. Cullinan** said he believes it is a 150 foot canal right of way.

**Recommendation**

**Mr. Vieira** moved that **PV-20-05-03** be sent to the Board of County Commissioners with a recommendation of Approval including the modified condition we are discussing today, based on the findings and analysis in the staff report dated July 15, 2020, along with the evidence presented at today's meeting, second by **Mr. Bigness**; and carried by a unanimous vote.

**PP-20-07-13**

**Quasi-judicial**

**Commission District I**

Babcock Property Holdings LLC has requested Preliminary Plat approval for a subdivision to be named, Babcock Ranch Community, Phase 1B3, consisting of 38 single-family lots. The site is 10.32 acres, more or less, and is located south of Bermont Road, north of the border with Lee County, east of Babcock Ranch Road, and west of the border with Glades County, in Sections 31 and 32, Township 42S, Range 26E, in Commission District I.

**Shaun Cullinan, Planning and Zoning Official**, provided the findings and analysis for Petition **PP-20-07-13** with a recommendation of approval with conditions, based on the reasons stated in the staff report.

**Applicant's Presentation**

**Robert Berntsson, BIG W Law Firm**, said he accepts Shaun as an expert. They have worked with staff regarding this preliminary plat, agree with the staff report and would answer any questions.

**Public Input**

None

- **Mr. Bigness** moved to close the public hearing, second by **Mr. McCormick**; with a unanimous vote.

**Recommendation**

**Mr. Vieira** moved that **PP-20-07-13** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff report dated August 18, 2020, along with the evidence presented at today's meeting, second by **Mr. Bigness**; and carried by a unanimous vote.



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**PP-20-07-14**

**Quasi-judicial**

**Commission District I**

Babcock Property Holdings, LLC has requested Preliminary Plat approval for a subdivision to be named, Babcock Ranch Community, Village III Southwest, consisting of 101 single-family lots. The site is 48.91 acres, more or less, and is located south of Bermont Road, north of the border with Lee County, east of Babcock Ranch Road, and west of the border with Glades County, in Sections 19 and 30, Township 42S, Range 26E, in Commission District I.

**Shaun Cullinan, Planning and Zoning Official**, provided the findings and analysis for Petition **PP-20-07-14** with a recommendation of approval with conditions, based on the reasons stated in the staff report.

**Applicant's Presentation**

**Public Input**

None

- **Mr. McCormick** moved to close the public hearing, second by **Mr. Vieira**; with a unanimous vote.

**Recommendation**

**Mr. Vieira** moved that **PP-20-07-14** be sent to the Board of County Commissioners with a recommendation of Approval with 2 conditions, based on the findings and analysis in the staff report dated August 18, 2020, along with the evidence presented at today's meeting, second by **Mr. Bigness**; and carried by a unanimous vote.

**20LAD-00000-00001**

**Quasi-Judicial**

**Commission District I**

A Resolution pursuant to Section 380.06(7), Florida Statutes (F.S.) and Section 3-9-10.1, Development of Regional Impact (DRI) Development Order (DO) Amendment Process and Procedure under Chapter 3-9, Zoning, the County's Land Development Regulation, amending Development Order for the Victoria Estates Development of Regional Impact (DRI) to extend the buildout date of this Development Order to August 12, 2035. The DRI currently contains 382.94± acres in two non-contiguous parcels in the Port Charlotte area. The first consists of 301.44± acres located southeast of Kings Highway, southwest of I-75, north of Rampart Boulevard, and east of Loveland Boulevard, known as Kings Gate. The second consists of 72.5± acres located south of Suncoast Boulevard, north of Old Landfill Road, east of Loveland Boulevard and west of Minneola Avenue, known as Suncoast Lakes. Commission Districts I; Petition No. 20LAD-00000-00001; Applicant: Neal Communities of SW Florida, Inc.; providing an effective date.

**Jie Shao, Principal Planner**, provided the findings and analysis for Petition **20LAD-00000-00001** with a recommendation of approval, based on the reasons stated in the staff report.

**Applicant's Presentation**

**Alexis Crespo, with Walter Engineering**, represented the applicant and said she was sworn in. She said they accept **Ms. Shao** as an expert witness. **Ms. Crespo** said they agree with the staff report and would be happy to answer any questions.

**Public Input**

None

- **Mr. Vieira** moved to close the public hearing, second by **Mr. Bigness**; with a unanimous vote.

**Recommendation**

**Mr. Vieira** moved that **20LAD-00000-00001** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff report dated July 26, 2020, along with the evidence presented at today's meeting, second by **Mr. Bigness**; and carried by a unanimous vote.

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**20LAD-00000-00002**

**Quasi-Judicial**

**Commission District IV**

A Resolution pursuant to Section 380.06(7), Florida Statutes (F.S.) and Section 3-9-10.1, Development of Regional Impact (DRI) Development Order (DO) Amendment Process and Procedure under Chapter 3-9, Zoning, the County's Land Development Regulations, amending Development Orders for Increment II and Increment III of the Murdock Center Development of Regional Impact (DRI) to extend the buildout date of these Development Orders to March 15, 2025 and the expiration date of these Development Orders to March 15, 2027; for properties within Increment II generally located at the intersection of Tamiami Trail (U.S. 41) and El Jobean Road (S.R. 776), containing 132.4± acres, in the Port Charlotte area; for properties within Increment III containing 76± acres in two non-contiguous parcels, in the Port Charlotte area; the first parcel generally located east of Collingswood Boulevard, southeast of S.R. 776, southwest of Murdock Circle, west of Education Way, and north of Cochran Boulevard; the second parcel generally located east of Education Way, southeast of Murdock Circle, and northwest of Cochran Boulevard; Commission District IV, Petition No. 20LAD-00000-00002; Applicant: Robert H. Berntsson; providing an effective date.

**Jie Shao, Principal Planner**, provided the findings and analysis for Petition **20LAD-00000-00002** with a recommendation of approval, based on the reasons stated in the staff report.

**Questions for Staff**

None

**Applicant's Presentation**

**Robert Berntsson, BIG W Law Firm**, said he accepts Ms. Shao as an expert and was sworn in. He said they all know Murdock DRI is building out and we are coming close to the end. We still need a little more time in order to finish out the development. Murdock Surgery Center started their construction and needed the Increment extended for their project.

**Public Input**

None

- **Mr. McCormick** moved to close the public hearing, second by **Mr. Bigness**; with a unanimous vote.

**Recommendation**

**Mr. Bigness** moved that **20LAD-00000-00002** be sent to the Board of County Commissioners with a recommendation of Approval as outlined in the staff report, based on the findings and analysis in the staff report dated July 23, 2020, along with the evidence presented at today's meeting, second by **Mr. McCormick**; and carried with a unanimous vote.

The following two items are unified, they will be heard together and motions will be separate.

**PAS-20-00006**

**Legislative**

**Commission District IV**

An Ordinance pursuant to Section 163.3187(1)(C), Florida Statutes, adopt a Small-Scale Plan Amendment to change Charlotte County Future Land Use Map Series Map #1: 2030 Future Land Use, from Low Density Residential (LDR) to Office and Institutional (OI); for property located at 16890 Toledo Blade, in the Port Charlotte area, containing 0.689± acres; Commission District IV; Petition No. PAS-20-00006; Applicant: Paladin Land Management, LLC; providing an effective date.



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**Z-20-28-20**

**Quasi-Judicial**

**Commission District IV**

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential Single-family-3.5 (RSF-3.5) to Office Medical Institutional (OMI); for property located at 16890 Toledo Blade, in the Port Charlotte area, containing 0.689± acres; Commission District IV; Petition No. Z-20-28-20; Applicant: Paladin Land Management, LLC; providing an effective date.

**Elizabeth Nocheck, Senior Planner**, provided the findings and analysis for Petition **PAS-20-00006** and **Z-20-28-20** with a recommendation of approval, based on the reasons stated in the staff report.

**Questions for Staff**

**Mr. Bigness** asked if there is enough parking including handicap?

**Ms. Nocheck** said that will be looked at when they come in for site development.

**Applicant's Presentation**

**Derek Newcomber, applicant**, said he was sworn in and accepts **Ms. Nocheck** as an expert. **Mr. Newcomber** said this will pretty much stay the way it is. It was a model home that already had a little bit of parking. It will be an office.

**Public Input**

None

- **Mr. McCormick** moved to close the public hearing, second by **Mr. Bigness**; with a unanimous vote.

**Recommendation**

**Mr. Bigness** moved that **PAS-20-00006** be sent to the Board of County Commissioners with a recommendation of Approval as outlined in the staff report, based on the findings and analysis in the staff report dated July 31, 2020, along with the evidence presented at today's meeting, second by **Mr. McCormick**; and carried with a unanimous vote.

**Mr. Bigness** moved that **Z-20-28-20** be sent to the Board of County Commissioners with a recommendation of Approval as outlined in the staff report, based on the findings and analysis in the staff report dated July 31, 2020, along with the evidence presented at today's meeting, second by **Mr. Vieira**; and carried with a unanimous vote.

The following two items are unified, they will be heard together and motions will be separate.

**PAS-20-00005**

**Legislative**

**Commission District II**

An Ordinance pursuant to Section 163.3187(1)(C), Florida Statutes, adopt a Small-Scale Plan Amendment to change Charlotte County Future Land Use Map Series Map #1: 2030 Future Land Use, from Low Density Residential (LDR) and High Density Residential (HDR) to Commercial (COM); for property located at 3300 – 3506 Rosemary Drive, in the Punta Gorda area, containing 2.48-acres more or less; Commission District II; Petition No. PAS-20-00005; Applicant: Seventeen and Seventy-five LLC; providing an effective date.

**PD-20-00004**

**Quasi-Judicial**

**Commission District II**

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Planned Development (PD), Residential Multifamily-5 (RMF-5) and Residential Multifamily-10 (RMF-10) to Planned Development (PD); for property located at 6201 Duncan Road and 3300 – 3506 Rosemary Drive, in the Punta Gorda area, containing 21.45-acres more or less; Commission District II; Petition No. PD-20-00004; Applicant: Seventeen and Seventy-five LLC; providing an effective date.

**Shaun Cullinan, Planning & Zoning Official**, provided the findings and analysis for Petition **PAS-20-00005** and **PD-20-00004** with a recommendation of approval, based on the reasons stated in the staff report.

**Questions for Staff**

**Mr. McCormick** asked in the documentation, there are several references to coverages, a ratio of 1 and 55%. I found myself not clear on exactly what this terminology meant.

**Mr. Cullinan** said those are lot coverages and Florida area ratios. Those are percentages of how much land can be covered by structures, what the Florida area ratios is for those structures.

**Mr. McCormick** said so the term 1 means 100%?

**Mr. Cullinan** said correct.

**Mr. Gravesen** said there were a number of letters forwarded to me from staff, I'm sure they have been included in the staff reports and documents.

**Mr. Cullinan** said there were also a few more that came just prior to this meeting. They have been either scanned into the packet or emailed to you.

**Mr. Vieira** asked if Mr. Cullinan would give a brief update on the previous petition for this site.

**Mr. Cullinan** said sure. Back in 2007, there was a comprehensive plan amendment and rezoning to turn this area here (he showed on the map) take out residential lots along Rosemary. The County had been involved as an economic development project to try and encourage some rail to truck areas. This did not happen. The recession hit, the project did not go forward. Back in 2007 there were public hearings held, which allowed for the railroad siting and truck transport area, as well as some light industrial and commercial. This area was always intended to develop this way. This was approved in 2008. At that time, the County only had a 250 foot notification area requirement for the neighbors. Now we notify 1000 foot buffer. The truck and rail siting has been approved since 2008 by the Board of County Commissioners.

**Mr. Bigness** asked what is the status of the rail?

**Mr. Cullinan** said our understanding is trains go by there occasionally. They utilize the railway.

**Applicant's Presentation**

**Jason Green, representing the applicant**, said he was sworn in and accept **Mr. Cullinan** as an expert. **Mr. Green** said he also has 17 years of experience and has been before this board before. He said staff covered the background. One of the main reasons for this is for improvements. Rosemary and Somerset streets are being improved up to County standards. That requires additional stormwater to meet today's standards. He showed a power point presentation of the changes proposed. The intent is to have multiple lots throughout the frontage for commercial use.

**Questions for Applicant**

**Mr. McCormick** asked the proposed intermodal operation will not be a separate siding, this will be done on the mainline track?

**Mr. Green** said the siding is up to the railroad. Sometimes they require additional siding within the rail right of way. The railroad right of way controls that.



**Mr. Bigness** asked if they had any idea what types of products might be coming in, going out, where they are coming in from or going to?

**Mr. Green** said there are a substantial amount of materials that need to be brought in for the widening I-75 widening. A lot of the rock comes out of some quarry in Georgia. There will be other roads widened needing materials.

**Mr. Vieira** asked is the main point of access from Regent Road down to Rosemary Drive to access the site?

**Mr. Green** said yes. Rosemary goes out to Regent. Essentially there will be a right in and right out on US 17.

#### **Public Input**

**Joseph Lowe, lives in the area, said he was sworn in. Mr. Lowe** said he has experience in intermodal transportation. He gave his background. He feels this is not feasible. He has a rail corridor feasibility study from Lee County. This was proposed to Lee County twice. Their feasibility about the rail is that since 1991, it has degraded to a condition where it is now at level one rail, which is the lowest possible safety you can operate a train on. Level 6 would be high speed rail and there are big differences. Now, in zone 1, we have 10 mph, Level 2 is at 25 mph max. The rails are not welded, they are old jointed rails with rotting timbers underneath. They are poorly maintained. They are not safe to carry a load of 100,000 lbs. per car. That is what the gravel would be. Since 1991, they lost their largest customer out of the port of Fort Myers. It runs only once a week and the main loads they carry is produce. They also carry scrap metal and some lumber products, but the problem is there is no manufacturing for return. He explained variances for side loaders. They will need a lot of land for trailers and places to stack items. He feels there is no business to be had here for a project like this. He feels this area would be better to have low income housing, not all the tall buildings this project would require. There will also be more trucks in this area. He says our roads are not even ready for this.

**Mike Griffin, lives in the area. Mr. Griffin** said he has been here since 1986. He built his house in this area. They are concerned about the waterways and contamination that could come with this project.

**Allan Williams, lives in the area. Mr. Williams** said he is a full time fishing guide in this area. He said this was approved 13 years ago. A lot of things have changed in 13 years. He is concerned about the environment and the rivers and harbor. Tropical rains and runoff will go into the river. Pollution from this site will also go into the rivers. We need to protect the environment when we can.

**Louis Garcia, lives on Bermont Road. Mr. Garcia** said he feels this will bring twice as much traffic on Bermont Road than they have now. The excavation pits alone bring many trucks. He heard if this is approved, Bermont Road will be turned into a 4 lane road. That will bring more traffic.

**Ruth Brooks** said when she read the staff report, it said the staff's primary concern is screening the views from the adjacent residential properties and US 17. We will be impacted by noise, traffic, decreased property values, road safety, probably environmental decline and unsightly views with trucks and trains. The buildings can go 60 feet and the buffer can be 6 to 8 feet. A container is 10 feet high. They can be stacked 3 feet high. The loading and unloading off and on to trains is very noisy and the buffer will not protect us from the noise. The staff report says the hours are 7 a.m. to 7 p.m. with the exception of the trains. They may be going by in the middle of the night. Landscaping will not protect us from the shaking ground and noise.

**Richard Langston** said he wasn't planning to speak, but after reading the material about US 17, he does not remember ever hearing about an intermodal of any of this sort to interrupt the quietness of the Punta Gorda area. He has been coming to Florida and this area since the 1980's. He said this is not beneficial.

**Brad Hurst** said he is the Vice President of sales and marketing for Seminole Gulf Railway. To be clear, he is unaware of this project, but is in support of Charlotte County economic industrial development. He said they do operate trains through this area, quite frequently. We have a yard in Fort Myers and have to cross Punta Gorda to get there. It is active and it is engine for industrial growth. This is an active rail line.

**Mr. Bigness** asked Mr. Hurst what can you tell us about some of the statements made with respect to the health of the rail line, how fast trains can go, how big trains can go through there, how many can go through a day?

**Mr. Hurst** said I can't speak to that. I am on the sales team. Our operations team would have to answer that for you.

**Ann Melnick** said my house faces the train. I don't know what active training he is looking at every day, but if there is one train a day going by at 4 mph, it is a lot. There is no active train. They are talking about job created at this site, really? How many jobs can be created at this site. Jones Loop and US 17 is commercial. If they really wanted a commercial railroad, it should be somewhere else, but they probably got this property at a good price. Why was it able to be changed from residential to commercial and put this on our backs. You are changing a residential piece to allow commercial for profit. She wanted to know where the entrance would be.

**Mr. Cullinan** said the entrance would be from Regent to Rosemary and into the site or from Somerset to Rosemary into the site.

**Ms. Melnick** said there is no way all these tractor trailers can fit on this road. This is the only way we come in and out. It is one thing to enter from US 17, but to enter from Regent Road, you are creating a nightmare traffic jam.

- **Mr. Bigness** moved to close the public comment, second by **Mr. McCormick**; with a unanimous vote.

#### **Applicant Rebuttal**

**Jason Green** said the majority of the comments were addressing the intermodal, which I am not here to relitigate. That use was approved. There is a new 20 plus million dollar road extension connecting to the airport. This area is perfect for intermodal. There is no rail on Jones Loop, you cannot have an intermodal there. Regarding environmental, local and State requirements have to be met. We already have water management permits for the roadway and site. He feels the reason houses have not built on those vacant lots is the roads. After this is put in, you will probably see more housing in that area. Using the railroad has less trucks from state to state. Most of the trucks will be going to the airport on Piper Road and US 17.

**Mr. McCormick** asked you say the proposed conditions A through S?

**Mr. Green** said yes, they worked with staff to make sure all are in compliance with codes and regulations.

**Mr. Gravesen** asked about Regent Road and Rosemary, are they being improved?

**Mr. Cullinan** said the applicant will be improving them. He said it is stated in their narrative to improve Rosemary and Somerset.

**Mr. Green** said yes that is correct. Regent to the front and Rosemary by US 17.

**Mr. Bigness** asked with respect to the containers being stackable, can you share with us how the buffering would apply.

**Mr. Cullinan** said there are 3 different types of buffering. We do have large canopy areas that are required. All the buffering will be on their property. **Mr. Cullinan** said just a couple of things, he wants to make sure the facts



are out there. This was approved in 2008. The US 17 corridor study was approved in 2010. These rights are vested. Even if the County Commissioners deny this, everything conferred upon them in Ordinance 2008-31 is vested. That includes the railroad siting, the access points – including this Rosemary Drive.

**Mr. Gravesen** said then if the Commissioners denied this request, then there is an issue with the stormwater management on the residential lots.

**Mr. Cullinan** said then it would have to go back on the primary lot as was approved.

#### Recommendation

**Mr. McCormick** made a motion to forward PAS-20-00005 to the Board of County Commissioners with a recommendation of Approval as outlined in the staff report, based on the findings and analysis in the staff report dated September 8, 2020, along with the evidence presented at today's meeting, second by **Mr. Gravesen**; motion failed with a split of 2 to 2 for the vote.

**Mr. McCormick** made a motion to forward PD-20-00004 to the Board of County Commissioners with a recommendation of Approval with conditions A through S, based on the findings and analysis in the staff report dated September 8, 2020, along with the evidence presented at today's meeting, second by **Mr. Gravesen**; motion failed with a split of 2 to 2 for the vote.

#### **TLDR-20-01**

#### **Legislative**

#### **County-Wide**

An Ordinance pursuant to Section 125.66, Florida Statutes, amending Charlotte County Code Chapter 3-9, Zoning; by adding Accessory chicken keeping as a conditional use to Article II: District Regulations, Section 3-9-26.3: Use Table - Residential Zoning Districts; by creating new item (7) Accessory chicken keeping under Article II: District Regulations, Section 3-9-33: Residential Single-Family (RSF), subsection (d) Conditional uses and structures (C); by creating new item (14) Accessory Chicken Keeping under Article III: Special Regulation, Section 3-9-69: Conditional uses and structures, subsection (g) Residential uses to provide standard conditions; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Shaun Cullinan, Planning & Zoning Official**, provided the findings and analysis for Petition **TLDR-20-01** with a recommendation of approval, based on the reasons stated in the staff report.

#### Questions for Staff

**Mr. Vieira** asked about the monitoring of this. Are you going to depend on neighbors complaining against neighbors?

**Mr. Cullinan** said what they were looking to do is a no cost registration with the County just so we can track. If there is a complaint, it would then be a Code Enforcement violation.

**Mr. Gravesen** said so being this is a conditional use, if this passes, they have the right to have chickens and come in and register at no cost.

**Mr. Cullinan** said yes, that is correct. They will have to do an opaque shielding with a solid wall or fence. Coops have to be maintained. No roosters.

#### Public Input

**Melissa Aniskewicz, said she was sworn in.** **Ms. Aniskewicz** said she is the founder of Charlotte Cluck. She said we have come a long way but she wanted to address a few things. Section B mentions the rear yard of the lot needs to be fully fenced or enclosed, but it also says if the chickens are out of their coop, there has to be an enclosure. If someone does not have a fenced in yard and they already have a chicken coop with an enclosure

around it, why would they have to put up a fence when the chickens are already contained with an enclosure around their coop? She does agree with the other items on the ordinance. She would like to see that fence requirement removed.

**Mr. Cullinan** said the Board of County Commissioners specifically requested the yard be fully enclosed.

**Mr. Gravesen** said a fully enclosed fence yard, do you mean the fence is fully enacted or on the property line? Some people might have acreage.

**Mr. Cullinan** said the instruction from the Board of County Commissioners said to enclose the yard. We will bring forth that concern to them but that was their request.

**Alice Esposito, said she was sworn in. Ms. Esposito** said this is a great idea to have some chickens and have fresh eggs and for the students with 4-H. She said chickens are a lot of work. It is a full time job. This is not like a dog or pet. She grew up on a farm up north and had chickens. They are great and a lot to learn, but chickens should be on at least 2 acres. Not a small residential lot. She would not like her neighbors to have chickens on their small lot. Chickens also carry diseases.

- **Mr. McCormick** moved to close the public hearing, second by **Mr. Vieira**; with a unanimous vote.

**Mr. Gravesen** said he has an issue with Item #d, the killing and dressing of chickens is prohibited. When it is time to dispose of, they should be in the soup pot. He recommends deleting Item D when forwarding to the Commissioners.

#### **Recommendation**

**Mr. McCormick** moved that **TLDR-20-01** be sent to the Board of County Commissioners with a recommendation of Approval as outlined in the staff report, based on the findings and analysis, along with the evidence presented at today's meeting, second by **Mr. Vieira**; and carried with a 3 to 1 vote. Mr. Bigness opposed.

#### **TCP-20-04**

#### **Legislative**

#### **County-Wide**

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large-scale Plan Amendment to the Department of Economic Opportunity (DEO) and other State review agencies for review and comment; the request is to amend the Future Land Use (FLU) Element of the County's Comprehensive Plan by revising 1) FLU Policy 1.2.17: Incentive Density Usage, to add item 4 addressing development under Mixed-Use (MU) and Planned Development (PD) zoning; and 2) FLU Appendix I: Land Use Guide, to amend the Compact Growth Mixed Use (CGMU) Future Land Use designation; Petition No. TCP-20-04; Applicant: Charlotte County Board of County Commissioners; providing an effective date.

**Jie Shao**, provided the findings and analysis for Petition **TCP-20-04** with a recommendation of approval, based on the reasons stated in the staff report.

#### **Questions for Staff**

**Mr. Vieira** asked under the current uses of incentive density, the total amount of incentive density units that are available to any developer, is 11,475, that is the net the County actually has available?

**Ms. Shao** said yes, that is what is available for any project that qualifies.

**Mr. Vieira** said the various ones that are listed on the screen, we have 2 projects reserved. Are they spoken for? They are granted and now we are waiting for development on those projects?



**Ms. Shao** said you see the 5 projects and they are already granted to 3 projects. The other 2 projects we reserve the density because they have not gone through the site plan review yet.

**Public Input**

None

- **Mr. Bigness** moved to close the public comment, second by **Mr. McCormick**; with a unanimous vote.

**Recommendation**

**Mr. Vieira** moved that **TCP-20-04** be sent to the Board of County Commissioners with a recommendation of Approval as outlined in the staff report, based on the findings and analysis in the staff report dated August 31, 2020, along with the evidence presented at today's meeting, second by **Mr. McCormick**; and carried with a unanimous vote.

**TLDR-20-02**

**Legislative**

**County-Wide**

An Ordinance of the Board of County Commissioners of Charlotte County, Florida, amending Charlotte County Code Chapter 3-9: Zoning, Article II: District Regulations, by 1) by revising Land Development Regulations Table of Contents to add new Section 3-9-45.1: Planned Development (PD) Open Space and Setback Special Requirements; 2) revising Section 3-9-45: Planned Development (PD); providing for revised intent; providing for revised uses permitted; providing for revised design criteria and development standards; providing for revised procedures for rezoning to PD; and providing for PD rezoning flow chat; and 3) creating new Section 3-9-45.1: Planned Development (PD) Open Space and Setback Special Requirements; providing for intent; providing for development requirements within the US 41 overlay, providing for development requirements within the Burnt Store Overlay District; providing for development within the Compact Growth Mixed Use Future Land Use Map (FLUM) designation; and providing for development requirements within the Rural Community Mixed Use FLUM designation or Conservation Subdivision; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Jie Shao, Principal Planner**, provided the findings and analysis for Petition **TLDR-20-02** with a recommendation of approval, based on the reasons stated in the staff report.

**Questions for Staff**

None

**Public Input**

**Robert Berntsson, Esq., BIG W Law firm**, said he wanted to support the changes that are being made. The PD code when it was first adopted in 1989, I always said was for the purpose of a project like Riverwood or something large with a mixed community. The reality is we have used it for a lot of things, even including a parking lot. The PD has become an open palate we can use for many ideas. It also provides for protections.

- **Mr. McCormick** moved to close the public hearing, second by **Mr. Vieira**; with a unanimous vote.

**Mr. Vieira** said staff is proposing to add a timeline of incentive density uses, has this been established because I read somewhere 3 years tied to one particular category. Do we have a particular timeline?

**Ms. Shao** said yes, that will match the site plan review. They normally have a 3 year time line to pull a permit for the project and then it can be extended one time for an additional 2 years.

**Mr. Gravesen** said your incentive density, you have a list of percentages you an increase your density. Is there a maximum?

**Ms. Shao** said yes, the maximum is 30 percent, except if you have workforce housing, low income housing, that is already in the Comp Plan, we give you 100 percent.

**Mr. Gravesen** said he asked because he does not see a cap.

**Ms. Shao** said she will look into that.

**Recommendation**

**Mr. Bigness** moved that **TLDR-20-02** be sent to the Board of County Commissioners with a recommendation of Approval as outlined in the staff report, based on the findings and analysis in the staff report dated August 31, 2020, along with the evidence presented at today's meeting, second by **Mr. Vieira**; and carried with a unanimous vote.

**TLDR-20-03**

**Legislative**

**County-Wide**

An Ordinance pursuant to Section 125.66, Florida Statutes, amending Charlotte County Code, Chapter 3-9: Zoning, Article II: District Regulations, (1) by revising Land Development Regulations Table of Contents to add new Section 3-9-26.5: Use Table - Mixed Use Districts, and to rename Section 3-9-46 from Compact Mixed Use (CGM) to Mixed-Use (MU); (2) by creating new Section 3-9-26.5: Use Table - Mixed Use Districts; (3) by creating Section 3-9-46: Mixed-Use (MU) to provide for intent; provide for applicability; provide for mixed-use categories; provide for uses and structures permitted; and provide for development standards; and (4) by amending Section 3-9-69: Conditional uses and structures, to add conditional uses under Section 3-9-46: Mixed-Use (MU) to this section, and to provide for standard conditions; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners

**Elizabeth Nocheck, Sr. Planner**, provided the findings and analysis for Petition **TLDR-20-03** with a recommendation of approval, based on the reasons stated in the staff report.

**Questions for Staff**

**Mr. Gravesen** asked if you rezone to this mixed use, from a commercial zoning that has no density, do you automatically get that minimum?

**Ms. Nocheck** replied no. You have to establish your minimum density but to actually have the physical units, would have to be a transfer of density units.

**Questions for Staff**

None

**Public Input**

**Robert Berntsson, Esq., BIG W Law firm**, said he applauds the County for giving us another option with a new zoning category for mixed use. He does have a couple of concerns. In the applicability section, I am still confused, it states "for existing commercial sites that have been rezoned to MU, the standards set forth in this section shall apply to the redevelopment of the existing building which increases gross floor area or assessed valuation by more than 50%" if you don't, I don't know what applies. There used to be drive thru restaurants allowed. They were all by special exception and I raised the concern to go through a special exception to get a drive thru restaurant and now they are gone completely. I understand in Elizabeth's presentation, this is a walkable community. We are talking a 50 acre site. This isn't just one little development. There are 3 different categories. You don't allow drive thru restaurant but allow banks and financial services which have drive thru's, to allow a dry cleaner who can have a drive thru, a gas station is allowed by special exception. What is going to be the criteria? How would you not qualify for a gas station in a 50 plus acre development. We want to get away from the car and walking but we still have to get there and go places. I think they are appropriate. I am very concerned that this is a stand



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alone zoning district. You come in and get rezoned to mixed use. All of these incentives happen after the fact. The County Commission will be opening a blank checkbook.

- **Mr. Bigness** moved to close the public hearing, second by **Mr. Vieira**; with a unanimous vote.

**Ms. Nocheck** said for the stand alone parking (those opposed to parking garages), you are able to have surface parking, just not as a principal primary use on the site. Parking would need to be behind it. The bank drive thru's, they are not permitted. The only one that is permitted in the special exception is a pharmacy. This district is intended to be a walkable compact growth mixed use area.

**Questions for Staff**

**Mr. Bigness** said he shares Mr. Berntsson's feelings on this. I understand the concept of wanting to consolidate, try to get people to do more pedestrian traffic, but I think the reality we live in is there are quite a few handicap parking spaces. I have concerns with some of the heights of buildings. I caution the County Commission when they look at this and go forward, keep those things in mind. I hear people say the reason they come to this part of the country is they like it the way it is. They like the small town feel. I am caution. Thank you

**Mr. Gravesen** said he spent a lot of time looking this over and as you both said, there are concerns. I also have a lot of concerns. One is the incentive for density and the maximum. On your chart you have a maximum density. Is that the maximum including any incentives?

**Ms. Nocheck** replied yes.

**Mr. Gravesen** said that is not clear. The heights of the buildings are out of character with the whole community. Sunseekers had similar menu to choose from to get to 90 feet.

There was some discussion about a possible 200 foot building on US 41 against a roadway. This is 3 times higher than Sunseekers. So many units on a 50 acre site. No public transportation.

**Recommendation**


**Mr. Bigness** moved that TLDR-20-03 be sent to the Board of County Commissioners with a recommendation of Denial, based on the findings and analysis in the staff report dated September 8, 2020, along with the evidence presented at today's meeting, second by **Mr. McCormick**; and carried with a unanimous vote.

**Asst. County Attorney David** said a tie vote of 2 to 2 is a motion that will fail. When we did the two petitions earlier, those two motions failed by a tie vote. According to the voting rules, when a motion fails the matter shall be considered denied. We will make a notation in the record that those two items will go forward with a recommendation of denial based on the tie vote.

**ADJOURNMENT**

The meeting was adjourned at 5:30 p.m.

Accepted on behalf of the Charlotte County  
Planning and Zoning Board



Michael Gravesen, Chair